IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1199 OF 2007
IN
CRIMINAL APPEAL NO. 1110 OF 2007

Shri Appa Sitaram Waghmare ..Applicant

Vs.

The State of Maharashtra ..Respondent

Mr. P.B. Parse for applicant.
Mr. S.R. Shinde, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 29, 2007.

P.C.:

1. Heard the learned counsel for the applicant - original accused no.1 in Sessions Case No. 642 of 2003 and he is the only accused who has been convicted for the offences punishable under Sections 363, 366, 417 and 376 of IPC, whereas his sister Smt. Vandana Mukesh Kadam - accused no.2 and father Sitaram Laxman Waghmare - accused no.3 have been acquitted. The trial court noted that the accused no.1 was at the age of 34 years as on the date of conviction, the incident started from 10/6/2002 when the prosecutirx was stated

to be of the age of 15 years and 2 months and, therefore, prima facie though there may be some element of consent by the prosecutrix and despite the fact and the learned counsel pointing out that the accused no.1 is afflicted by polio and physically disabled to the extent of 61%, I am not inclined to release the applicant on bail.

2. Hence, the application is rejected. If the learned counsel for the applicant submits a private paper book which could be certified by the Registry, let this appeal be listed for final hearing as soon as the private paper book is ready. It is further directed that if and when the applicant is required to go for rehabilitation treatment, the jail authority shall provide the necessary facilities or he shall be taken to the appropriate centre.

(B.H. Marlapalle,J.)